

EXHIBIT A

1

2 UNITED STATES DISTRICT COURT
3 SOUTHERN DISTRICT OF NEW YORK

4 -----X
5 STEVE SANDS,

6

PLAINTIFF,

7

-against-

Case No.:
18-cv-07345
(JSR)

8

CBS INTERACTIVE INC.,

9

DEFENDANT.

10

-----X

11

DATE: January 10, 2019

12

TIME: 9:53 A.M.

13

14

VIDEOTAPED DEPOSITION of the

15

Plaintiff, STEVE SANDS, taken by the

16

Defendant, pursuant to a Notice and to the

17

Federal Rules of Civil Procedure, held at

18

the offices of Cowan, DeBaets, Abrahams &

19

Sheppard, LLP, 41 Madison Avenue, New York,

20

New York 10010, before Suzanne Pastor, a

21

Notary Public of the State of New York.

22

23

24

25

1 S. SANDS

2 little louder.

3 Q. Sure. Did you meet with your
4 lawyer prior to this deposition for
5 purposes of preparing for this deposition?

6 A. No.

7 Q. Did you review any documents
8 prior to the deposition today?

9 A. Did I reveal any documents?

10 Q. Review any documents.

11 A. Just the documents that you
12 requested that I needed to provide.

13 Q. Do you recall any more
14 specifics about those documents?

15 A. No.

16 Q. Did you bring them with you?

17 A. I didn't bring them with me.

18 I --

19 Q. Okay. Do you know which
20 photographs are at issue in this lawsuit?

21 A. I believe this is Benedict
22 Cumberbatch.

23 Q. We'll go over this --

24 A. Filming a Marvel show.

25 Q. We'll go over this in a little

1 S. SANDS

2 Q. Are these film or digital?

3 A. Digital.

4 Q. Did you search any memory cards
5 where the photos you claim in this case
6 might have been stored?

7 A. Every time -- there's no sense
8 to search a memory card because all the
9 data is gone the day I shoot it.

10 Q. Where do you transfer the files
11 once --

12 A. Onto a hard drive, as I already
13 said.

14 Q. Okay, that's where they go once
15 you've finished taking the photos?

16 A. Mm-hmm.

17 Q. How do you store them? Is it
18 by day, is it by person in the shot, is it
19 by production? How do you store your --
20 categorize --

21 A. By name, by production.

22 Q. By name --

23 A. By name of production and by
24 name of the talent.

25 Q. Do you retain copies of all the

1 S. SANDS

2 photos that you've taken in the past, say,
3 three years?

4 A. Yeah, I should.

5 Q. You should, you mean you
6 believe you do or you should because
7 everybody should?

8 A. Because I copy them onto my --
9 I use due diligence to put them on several
10 hard drives, yes.

11 Q. I just want to get a little bit
12 of sense of your background in photography
13 generally. Can we start with your
14 education. Did you finish high school?

15 A. Yes.

16 Q. Did you attend college?

17 A. Yes.

18 Q. Where did you go to college?

19 A. NYU.

20 Q. And did you get a degree?

21 A. No.

22 Q. How many years were you at NYU?

23 A. Three and a half.

24 Q. Close but not quite, huh?

25 Did you have a major or a

1 S. SANDS

2 Q. Are you aware that CBS has
3 licensed your photos --

4 MS. LACKMAN: Mr. Freeman, I
5 would ask you not to laugh.

6 A. Not these photos. That's for
7 sure.

8 Q. Has CBS licensed photos from
9 you before?

10 A. I don't believe they've
11 licensed it directly. As a matter of fact,
12 I remember ten years ago they actually
13 stole a picture of mine and they were
14 supposed to pay me for it. And then their
15 lawyer at the time went on vacation for a
16 very long period of time. That photo was
17 Ann Hathaway I believe with a very, very
18 irregular tan. And they just helped
19 themselves -- oh, no, it wasn't that photo.
20 It was Beyonce -- let's make a note of this
21 because that will come up. This is ten
22 years ago and this is a photo of Beyonce as
23 a police officer. Very exclusive.
24 Everybody was paying \$3,000 for that photo
25 and CBS just helped themselves to it.

1 S. SANDS

2 did paid you?

3 A. I've certainly had situations
4 where they paid me, yes. Some people have
5 done the honorable thing.

6 Q. Did you contact my client when
7 you first learned about the photos at issue
8 in this case?

9 A. Probably not.

10 Q. Why not?

11 A. Because there's so many thieves
12 out there, I have to work out a different
13 model when they get caught.

14 Q. What model is that?

15 A. Liebowitz, Inc.

16 MS. LACKMAN: Mr. Freeman, do
17 we need to take a -- do we need to
18 reschedule this deposition or
19 something until you get your act
20 together? I'm trying to keep this on
21 track and focus, and I'm really
22 interested in what your client has to
23 say.

24 A. Don't worry about him. I'm
25 focussed and I'm coherent and it is funny.

1 S. SANDS

2 A. I don't know. Enough where I
3 can find a lot of infractions on my own.

4 Q. Did you find any -- any of the
5 cases that you brought against CBS
6 Interactive, did you find the photos on
7 your own?

8 A. I don't know. Probably not.

9 Q. Who finds --

10 A. I don't remember.

11 Q. Who found these photos for you?

12 A. Who what?

13 Q. Who found the photos --

14 A. I don't know exactly who found
15 them. It wasn't me.

16 Q. Do you recall when you first
17 heard about them?

18 A. No.

19 Q. Was it --

20 A. It was two years ago.

21 Q. When you heard about it?

22 A. When -- well, I'm assuming it
23 was two years ago because that's when we
24 filed, so. That's when I took the photo.

25 Q. Do you remember when you

1 S. SANDS

2 heard --

3 A. Two and a half years ago.

4 Q. Do you remember when you first
5 learned about CBS Interactive using the
6 photos?

7 A. As I said, I don't remember
8 because there are so many thieves out
9 there, it's hard to really keep track.

10 Q. You can look back at the photos
11 in the complaint if you'd like if that
12 helps. Was it more than a year ago?

13 A. I have no idea. I would -- you
14 don't want me making assumptions, but I
15 will note something as an assumption. I
16 will assume if the way things go, if it was
17 2016 in October when I took the picture, it
18 was probably stolen somewhere within three
19 months of 2016. That's when most of the
20 thieves usually steal things.

21 Q. My question was when did you
22 first learn about the thief?

23 A. Oh, I don't remember. I told
24 you that.

25 Q. But it was a while ago.

1 S. SANDS

2 Q. Their job is to find your
3 photos?

4 A. Their job is to secure my
5 rights.

6 Q. Do you give them your
7 photographs routinely so they can search
8 for uses?

9 A. I certainly -- just as I do my
10 agents, I certainly let everybody who is
11 associated with my work know what I'm up to
12 on a regular basis.

13 Q. Well, how would they know that
14 a particular photograph was yours? How
15 would they know to search for it?

16 A. Because I probably -- what I
17 usually do is I send it to everybody. I
18 have a mass FTP -- as I told you, I have a
19 mass FTP distribution network. And every
20 time I shoot something I send it out.

21 Q. Who do you send it to?

22 A. The agents, as we already
23 discussed, and Liebowitz Law Firm.

24 Q. Anybody else?

25 A. Sometimes it's -- no, that's

1 S. SANDS

2 worthless on a Red Carpet. Because Red
3 Carpet photos all look the same and there's
4 no creativity involved. And I never wanted
5 to do it. I just did it as filler.

6 Q. You say there's no creativity
7 involved, what do you mean?

8 A. What?

9 Q. When you say there's no
10 creativity involved, what do you mean?

11 A. I could teach -- I could train
12 you for five minutes how to do a Red Carpet
13 photo with your cellphone. I could train a
14 monkey how to do with photo with the
15 cellphone. And it's actually been done.
16 National Geographic taught a monkey how to
17 take pictures and it wound up being on a
18 cover. And the monkey took a damn good
19 picture, too.

20 In other words, the person goes
21 on the Red Carpet and they just stand, they
22 look in your camera and you snap a picture.
23 It's nothing like what I shoot with
24 expressions and body positioning and
25 background. Background is the most

1 S. SANDS

2 important thing in a photo.

3 Q. Do you position -- the photos
4 that you shoot, do you position the action?

5 A. No. Sometimes I do, sometimes
6 I don't. But I definitely will pick an
7 angle, like one of the photos of Jon
8 Bernthal had the New York skyline. And
9 that wasn't one of their angles that they
10 used. I wanted to get a photo of just him
11 with the New York skyline because he's a
12 New York action hero and I always like to
13 get -- the environment is very important.
14 Many times the environment is just as
15 important as the foreground, meaning the
16 talent.

17 Q. And do you have any involvement
18 in picking the environment?

19 A. Absolutely none.

20 Q. Okay, then we'll come back to
21 this particular topic a little bit later.

22 I believe before the break you
23 also mentioned that these photos were
24 popular, is that right? The photos in the
25 set.

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2 A. And nor did I do any check as
3 you maintained before this. As I said, I
4 thought this was a Benedict Cumberbatch
5 photo, but that's old business.

6 Q. Right. So when you said too
7 many to count, too many thieves, do you
8 mean like we're talking millions, thousands
9 of people?

10 A. No, no. We're just talking
11 about a lot.

12 Q. What is a lot to you?

13 A. What happens when people do do
14 that, whether it be bloggers, Instagramers,
15 websites, corporations, the problem is
16 whoever runs it first should be paying the
17 most money. And many a times, if I send
18 the photos out right away, and that's a
19 "if," and I don't know what I did with
20 Bernthal, but if I send it out right away
21 at night, most of the thieves will be fans
22 and they'll pick it up and they'll steal
23 it. And it will be up there first thing in
24 the morning.

25 And what happens is the big

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2 paying publications, like People Magazine,
3 all of a sudden they go Steve, it's not
4 exclusive anymore, it's all over the
5 internet. And I get nothing out of that.

6 Q. Okay, so --

7 A. What it does is it reduces the
8 value where I cannot ask or command \$3,000
9 per picture anymore because it's already
10 been seen.

11 Q. Can you name --

12 A. This is why we have to
13 discourage copyright theft. This is why we
14 have laws that seem to be ignored. And I
15 know about these laws and I spend time to
16 copyright, or have them -- I have people
17 copyrighting them for a reason. The
18 copyright office exists for a reason. All
19 this mumbo-jumbo exists for a reason.

20 Q. And what's that reason?

21 A. So people don't -- so if people
22 steal a photograph, they have to compensate
23 the people who actually take their time to
24 go through this. But I think I'm going off
25 track.

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2 my Punisher photos, my Jessica Jones
3 photos, Naomi Kwiatkowski photos, my Donald
4 Trump photos. I have no idea because
5 that's a lot of photos that I do on a
6 regular basis.

7 Q. Right, but you know -- you said
8 that you saw a lot of thieves for The
9 Punisher photos. Do you remember when you
10 became aware --

11 A. From two years ago I'm not
12 going to remember who they were.

13 Q. No, but do you remember around
14 when you saw this, the thieves?

15 A. I just said about two years
16 ago. It's usually after the photos were
17 taken. Remember, I'm not the only one that
18 looks for these things, but I'm a hands-on
19 person and I like to see -- I like to help
20 my own cause.

21 Q. When you say your own cause,
22 what do you mean by that?

23 A. This is my cause.

24 Q. What is your cause?

25 A. Getting compensation for the

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2 Q. What's the basis for your
3 belief?

4 A. When I go on Pacer and I see
5 all these lawsuits against these
6 corporations and I see multitudes of the
7 same infractors, it's just a reasonable
8 assumption that this doesn't happen
9 accidentally. And I'm not just talking
10 about me.

11 Q. How many photographs do you
12 believe the media uses on a yearly basis?
13 Licensed photographs.

14 A. My photographs or in general?

15 Q. Just general.

16 A. I have no idea.

17 Q. Millions?

18 A. Ask your client. I have no
19 idea.

20 Q. Are you aware of any instance
21 where a media company was sued for a
22 photograph that they actually licensed?

23 A. No, but I do know many media
24 companies -- for example, when CBS had that
25 Ocasio Cortez interview and people started

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2 posting it, CBS's attorneys as I believe
3 would call them to say that this is
4 intellectual property and you have to take
5 it down. That I do know. And --

6 Q. But you're not aware --

7 A. Any time CBS gets some
8 exclusive material, they will make damn
9 well sure that their license is protected.

10 Q. We're going to strike that
11 whole answer.

12 Are you aware of any instance
13 where a media company was sued for a
14 photograph that it turned out they had
15 actually licensed?

16 A. I'm sure it happens. Not with
17 me.

18 Q. Never with you.

19 A. Never with me.

20 Q. Are you aware that your law
21 firm has on multiple occasions sued media
22 companies for uses of photographs that were
23 in fact licensed?

24 A. Does this have something to do
25 with me?

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2 else that has -- I only care about my
3 photos and CBS Interactive.

4 Q. Well, I care about getting
5 information from you, and I care about you
6 answering my questions.

7 A. How am I supposed to know what
8 goes on in Liebowitz Law Firm.

9 Q. You're supposed to say yes, no
10 or I don't know is sufficient.

11 A. I already said that but you
12 keep harping on something. Now I'm telling
13 you, how am I supposed to know what goes on
14 in a law firm? I'm not an employee.

15 Q. I'm not asking you that you are
16 supposed to know. I'm asking whether you
17 do know. "I don't know" is a fine answer
18 and then we can move on.

19 A. I already told you I didn't but
20 then you keep asking me more questions
21 thinking you're going to pull something out
22 of me. I have no idea what goes on in
23 their law firm.

24 Q. Period, that's all I need. I
25 don't need you to clarify. The thing is

1 S. SANDS

2 Punisher photos were used by lots of
3 thieves I believe. Do you know whether The
4 Punisher photos were licensed by anybody?

5 A. That's why I have people to do
6 that.

7 Q. So you don't know if they were
8 or not? Did any single person license
9 those photographs, to your knowledge?

10 A. No. As I stated earlier, I
11 look at my -- many a time I look at my
12 sales reports and they don't -- a lot of
13 them don't come in until a regular basis.
14 And if I see things that look like they
15 were stolen, then I inquire further.

16 Q. You inquire --

17 A. But I don't know who licensed
18 what.

19 Q. When you say you inquire
20 further, what do you mean? Who are you
21 inquiring to?

22 A. I already told you that. If I
23 see a photo that doesn't have a credit,
24 that raises a flag, and then I look
25 further. Sometimes I call the agency first

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2 to see did you license a photo. Sometimes
3 I don't. And then when I use my due
4 diligence, if I find something that looks
5 suspect, then, as I said, I hand it over to
6 Liebowitz Law Firm.

7 Q. Did you inquire in this
8 circumstance with the agency whether -- did
9 you inquire whether CBS Interactive had
10 licensed --

11 A. I'm sorry?

12 Q. Did you inquire in this
13 instance with your agency to find out
14 whether the photos that CBS Interactive
15 used were licensed?

16 A. I already said no.

17 Q. You didn't ask them?

18 A. No.

19 Q. Okay --

20 A. But as I said, as I said
21 earlier, you want to nip this in the bud,
22 if you're alluding that CBS licensed them,
23 tell me right now and that will save us a
24 lot of time and energy. But I think you're
25 just fishing, so continue. Because I don't

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2 work. Maybe when I'm dead I won't care.

3 That's a maybe.

4 Q. And you believe you should be
5 compensated for this work --

6 A. For any work I do.

7 Q. And in what amount?

8 A. Whatever amount I feel
9 appropriate at the time.

10 Q. So the value of a photo changes
11 depending on what?

12 A. Of course it does.

13 Q. What does it --

14 A. We're talking about these
15 photos.

16 Q. Yes.

17 A. Jon Bernthal did not have a
18 beard on The Punisher. This was the first
19 time he was seen with a beard. I barely
20 even recognized him when I first saw him.
21 So what that means, when an actor is in
22 costume and when he had a beard, it was a
23 temporary thing, and I'm not going to go
24 giving plot lines and stuff, but the beard
25 was an important thing because it only

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2 lasted a couple scenes. I was the first
3 one who had it.

4 And that's what the comic book
5 fans want to see, how he looks next. And
6 that was exclusive. Got him with the
7 beard.

8 Those are my photos, whoever
9 got those photos, nobody else had them.
10 And I don't believe even Marvel had a
11 photographer there that day. So even
12 Marvel didn't have the photos of that. So
13 that means they're more valuable.

14 Q. There was no other photographer
15 that took photos that day?

16 A. There's always photographers.
17 There's always somebody with a cellphone.
18 I believe that one photographer was there.
19 But these are my photos. I can't talk
20 about other people's photos. I can talk
21 about my photos.

22 Q. Of course. You can also talk
23 about your experience in taking the photos.
24 And so that's why --

25 A. I only know about me. I only

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2 the value of the photos of Jon Bernthal
3 came from the fact that he had a beard and
4 that's what made him --

5 A. Absolutely. And I do know this
6 is day 1 of The Punisher as opposed to when
7 he was on Daredevil. That's more important
8 because they actually gave him his own
9 show. And Marvel is a little secretive
10 about stuff. And I don't believe it was
11 even out there that he had his own show.
12 Marvel and Netflix likes to be very
13 secretive.

14 Q. How did you find out about
15 this?

16 A. I have lots of connections.

17 Q. Do you have a connection at
18 Marvel?

19 A. Probably not. They're all
20 NDA'd.

21 Q. Did you speak with anybody
22 about coming to the set?

23 A. To gain permission?

24 Q. Yes.

25 A. I never do.

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2 plaintiff is a custodian of documents. Do
3 you see that?

4 A. Some of the documents.

5 Q. Right, okay, well, you're
6 anticipating my question, which is which
7 documents did you have in this case?

8 A. Well, I did not have the
9 copyright registration materials or the
10 license related documentation. That's
11 whoever my staff was that would have that.
12 Meaning Liebowitz Law Firm or my sub
13 agents.

14 My past history of being sued
15 for copyright infringement, I have never
16 been sued for copyright infringement.
17 Actually, I don't even remember that
18 question but that's okay. I assume I
19 glanced over it and I've never been sued.
20 It doesn't even apply to me.

21 Q. Well, that's why it says
22 defendant. You're not the defendant in
23 this case.

24 A. Oh. This is my answer though.
25 These are my questions. This is something

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2 the sole copyright holder. Nor do I sign
3 over my copyright to any agency.

4 Q. Mr. Sands, you gotta answer the
5 question. The question is why do you say
6 that plaintiff's counsel has information?

7 A. Because they're the ones who do
8 the copyright. I don't know about the
9 copyright mumbo-jumbo. And it changes.
10 And it's very complicated. And they know
11 about that. That's why they do what they
12 do and that's why I hire them.

13 So of course that's why I would
14 answer that the plaintiff's counsel has
15 that kind of knowledge, because they're the
16 ones who do the copyright. As I've said
17 four times already.

18 Q. Do they have --

19 A. I don't do copyright. I don't
20 go on the website, nor am I personally
21 registered. I have people that do that.
22 Just like you, and you work for CBS and CBS
23 didn't even bother showing up themselves.
24 So I have my representative, you have --
25 CBS has their representative. And I can

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2 A. Did I check what?

3 Q. Did you check the copies of the
4 photos that were submitted to the copyright
5 office before --

6 A. I absolutely did because I
7 wanted to verify -- that is one thing I
8 always do. I make sure that each photo is
9 my photo, and I cross-reference that with
10 my computer. And whatever photos I can
11 find at the time. And I know these are
12 exactly my photos, and these are exactly my
13 angles. And none of them have credit.

14 Q. So there is correspondence
15 between you and your lawyers pertaining to
16 the application that's attached to the
17 complaint?

18 A. I don't know what -- a lot of
19 my correspondence is in phone calls. So
20 I'm a phone call person. As I told you,
21 I'm not a texter, I'm not a social media
22 person. The only time I really like to use
23 e-mail is just data.

24 Q. So did they send you -- did
25 your law firm send you a copy of the

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2 application and the proposed deposits
3 before --

4 A. Probably not. Usually what I
5 do is I send the photos to them and then
6 they handle it.

7 Q. Okay, so --

8 A. I think that's client-attorney
9 privilege and I don't really -- I'm not
10 really authoritative enough to answer that
11 question. And it's client-attorney
12 privilege so I'd really like to pass on any
13 questions having to do with the business of
14 my lawyer because I just don't know. And
15 if I did know, it would be protected.

16 Q. Your lawyer should be making
17 privilege objections, not you.

18 A. Okay.

19 Q. My question is do you see --

20 A. I just like to make things
21 smoother.

22 Q. I would disagree with your
23 characterization. But did you see the
24 application --

25 A. No.

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2 Q. -- and the pro -- okay, no.

3 Thank you, that's a good answer.

4 Do you select which photos to
5 register? So for example --

6 A. Everything I shoot --

7 Q. You register everything you
8 shoot?

9 A. Everything.

10 Q. How many photos, roughly, did
11 you shoot on the set of The Punisher that
12 day?

13 A. I have no idea. It was a
14 couple hours. I could say a hundred, maybe
15 300 raw images. And usually, and I can't
16 be specific, but usually -- this is what I
17 usually do. If it's a long day, I usually
18 whittle it down to maybe 20 images. And
19 those are the ones that I copyright because
20 nothing really happens to the ones that I
21 don't process. Every photo gets processed.
22 They get captioned on an IT PC captioning,
23 metadata and they get titled.

24 And those are the photos that
25 we can only talk about because I will

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2 not -- I'm not going to send every -- I'm
3 not going to send things that aren't
4 necessary because those photos that we're
5 talking about, the raw photos are in my
6 computer and my computer only. Unless
7 somebody hacks my computer, that's another
8 story.

9 Q. Okay, so in this -- so you have
10 a couple -- if you have a couple hundred
11 photos maybe and you whittle it down to 20
12 for example, you could talk about this
13 generally or in this specific case --

14 A. Generally, and I'm sure this
15 was no different.

16 Q. That's helpful. Do you send
17 the same photos to the licensing agency
18 that you send to your lawyers to register?

19 A. Oh, yes.

20 Q. So you don't ever send more to
21 the agency than you do for registration?

22 A. It's usually the same photos
23 that go everywhere.

24 Q. Do you know if it was any
25 different in this case?

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2 lawsuit?

3 A. Yes. And nothing came up.
4 Nothing came up, right? So nothing came
5 up, but everything would be within the date
6 that I shot it.

7 Q. Okay, let's turn to page 5 of
8 this document in front of you. Not that
9 one. Exhibit 5.

10 A. Would that be in Exhibit A?

11 Q. No. This is the smaller one
12 you were looking at just a minute ago. It
13 should have a number 5 on the front. So
14 it's page 5.

15 A. Page 5?

16 Q. Yes.

17 A. Okay.

18 Q. Do you see the chart at the top
19 of page 5?

20 A. Right.

21 Q. And do you see the first line
22 where there's a reference, estimated fair
23 market value of each photograph? Do you
24 see that?

25 A. Correct.

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2 Q. And it says 1500 to \$2500. Do
3 you see that?

4 A. Correct. Estimated.

5 Q. Estimated, right. Why do you
6 conclude that this is the estimate for the
7 value of each photograph?

8 A. Because as I told you earlier,
9 that's what I usually ask. And sometimes
10 it's more. Like if I get photo of Gwyneth
11 Paltrow with her baby that's exclusive and
12 nobody else has, it goes up substantially
13 to what I request.

14 Q. Are you aware whether anyone
15 else had photos taken on the set of The
16 Punisher that day?

17 A. I don't really know or care
18 what anybody else had because I know what I
19 had. And if they want to buy my pictures,
20 this is what they have to pay.

21 Q. So exclusive means that it's --
22 the exclusive refers to who gets it as a
23 licensee rather than it's exclusive like
24 there's no other photos like this?

25 A. It can apply to both. But

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2 Q. Mm-hmm.

3 A. And if those two answers are
4 correct, that's assuming that they call,
5 unlike CBS Interactive, but then they're
6 willing to pay the money and they get me
7 that photo right away, we want to run it
8 right now so we get all the first looks.

9 Q. I see, okay. Do you --

10 A. I like to give examples. Just
11 like the Ocasio -- the CBS Ocasio interview
12 --

13 Q. Hold on. We're never going to
14 get through this. I gotcha.

15 A. Okay, thank you.

16 Q. If I move on it's because I
17 understand your answer.

18 A. Please cut short any time you
19 want.

20 Q. So when you say the estimated
21 fair market value of each photograph is
22 \$1500 to \$2500, does that mean for an
23 exclusive?

24 A. It's just a good place to
25 start. And usually of course it has to do

1 S. SANDS

2 with exclusives. I don't think I would
3 have the nerve if 20 photographers had the
4 same photo I had to ask for \$20,000.
5 That's why I don't do red carpets and stuff
6 like that. I like to go where there's not
7 a lot of people with cameras.

8 Q. So this range then, does this
9 fair market value, does this assume that
10 this is the rate that someone -- if some
11 website said we want to publish this first,
12 is this the rate that you would charge?

13 A. Yes. That's a good place to
14 start. In other words, what are you going
15 to do for me. Are you going to -- what are
16 you going to do for me? I'm giving you
17 something that I worked hard for and I want
18 you to get it right away. I want you to be
19 the first one to run it. What do I get in
20 return. Do I get to use your name, do I
21 get invited to something that you have.
22 We're kind of a partnership here.

23 Q. So when you say it's a good
24 place to start, if someone said I'll give
25 you \$750 and premiere access to my next

1 S. SANDS

2 event, would that be -- is that what you
3 mean by "a good place to start"?

4 A. Yes.

5 Q. So the numbers wouldn't
6 necessarily go up.

7 A. That's why it depends on who
8 you're talking to. But I have to get
9 something out of it for me to make that
10 decision.

11 Q. Were the photographs at issue
12 in this case, do you know if they were ever
13 each licensed on an individual basis for
14 1,500 to \$2,000?

15 A. I have no idea. Probably not.
16 But I would have no idea.

17 Q. Then what's your conclusion
18 that this is the fair market value of each
19 photograph?

20 A. Because that's what I usually
21 ask. And then whoever calls -- there's
22 some people I don't want to sell to. I
23 don't like to sell the scandal publications
24 like the Enquirer because if it's an actor
25 that I like, I don't want them running

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2 things about him or her. I don't like
3 scandal publications because everything
4 they print is not true.

5 Q. Did you ever tell any of your
6 licensing agents that they were not
7 permitted to license to a particular --

8 A. I have certainly told -- yes,
9 absolutely. I have told many of the people
10 who and where they're supposed to license
11 to.

12 Q. Do you recall ever -- these
13 requests that you described, would you make
14 these on a blanket basis or would these be
15 photo-by-photo?

16 A. Sometimes it's a blanket basis
17 and sometimes it's -- if somebody -- let's
18 say People Magazine says we're paying you
19 \$3,000 for exclusive rights to this photo,
20 then I immediately call on the phone,
21 because you want to make sure people know
22 what you're doing, you want to call them
23 and tell them you can't run these photos
24 now because I just sold it.

25 Q. Did you ever -- can you recall

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2 any online only publication that ever
3 licensed a set of photographs for 1,500 to
4 2,500 each?

5 A. Probably not.

6 Q. So in your experience, this is
7 your opening offer?

8 A. This is the print. And a lot
9 of times they're throwing -- you're
10 throwing in online for the big money in the
11 print anyway.

12 Q. So what do you think is a fair
13 market value if it was just online?

14 A. You know, online is -- I'd
15 rather it not go online. But that's the
16 state of the market right now. So I'm
17 still going to ask for what I ask for. I'm
18 not going to make -- I'm not going to give
19 my photos away for nothing.

20 Q. For online only use, do you
21 know the largest number you've ever
22 received for --

23 A. No I don't, because online is
24 very minor to me. And I don't really --
25 there are too many of them and I don't

1 S. SANDS

2 really care about dealing with them. I'd
3 rather not even waste my time bothering
4 with them.

5 Q. So the price is basically --
6 the price you're seeking is basically --

7 A. I don't change my prices unless
8 somebody calls me. And then we'll talk.
9 What do you have to offer me.

10 Q. So the price you're seeking is
11 basically print and you throw in the online
12 use as part of that package?

13 A. I'm open to anybody who wants
14 to call me and use my pictures or my
15 agents. But they have to call. They have
16 to inquire.

17 Q. So you've never directly
18 licensed a photo for online use only?

19 A. I'm sure I have in the past.
20 But do I remember it, it's so minor to me.
21 And I have not -- let's be specific. To
22 The Punisher, no, I do not recall selling
23 any images on my own to the Punisher, of
24 The Punisher.

25 Q. Funny enough, we've covered

1 S. SANDS

2 Google isn't even accurate. But it's a
3 good place to start.

4 Q. Is this one of those things
5 that you've logged into once in your life?

6 A. No. On a regular basis but I
7 can't tell you how many times. It's just
8 when the whim hits me. I will tell you I'm
9 probably not even going to look
10 at The Punisher photos because I think
11 we're all set on what's mine and what
12 isn't.

13 Q. What do you mean by that?

14 A. I'm not going to look up,
15 because I think it's pretty accurate on
16 what's going on with these and that CBS
17 took my pictures.

18 Q. So you're not going to search
19 for any other Punisher --

20 A. Even today after we break
21 because I think we're all -- I'm confident
22 that we're all set on all the particulars.

23 Q. Okay, so you're not going to
24 search for any other -- I think you said
25 something like there were countless thieves

1 S. SANDS

2 for these photos. You're not going to
3 search to see whatever thieves might be out
4 there?

5 A. I don't have to because I have
6 people that do this for me. Just like
7 you're not doing this because you have
8 people typing this out. And you're not
9 gonna go to the courtroom and file. You're
10 gonna have people that do that for you.
11 Right? So I have people that do that as
12 well. And you've dealt with them quite
13 extensively, as I understand.

14 Q. Well, considering how many
15 lawsuits are filed, it's almost impossible
16 to avoid your lawyers.

17 A. Not just with me.

18 MS. LACKMAN: Let's mark as
19 Exhibit 6 -- let's not mark as
20 Exhibit 6.

21 Q. Forgive me if I've covered some
22 of this stuff already, and you can tell me
23 if I have. Are you assigned -- does anyone
24 ever assign you a job to go take, or do you
25 find this stuff on your own?

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2 Q. There are more things that are
3 relevant to the case. Your lawyer has also
4 made other cases involving my client
5 relevant. And I also want to understand
6 the general process so I can establish a
7 foundation.

8 A. It's the same thing. Very few
9 producers, unless it's an independent show,
10 can actually give me permission. But I am
11 known as a fighter and I am very much
12 against corporate bullying. In other
13 words, to translate, when I show up on a
14 set and they don't want me there, they try
15 to get these big security guards to try to
16 intimidate you. As a matter of fact, CBS
17 is very good at that with the few shows
18 that they have. I'll just throw that in
19 there. I'm thinking of something right now
20 that was pulled on me at Madame Secretary
21 since you mentioned it. So no.

22 But what they can do is the
23 producer can say it's not worth it to throw
24 him out, leave him alone. And that gives
25 them, when they have to answer to the

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2 production company, meaning CBS, or in this
3 case Netflix, why did Steve Sands get the
4 set for these photos, we can't legally stop
5 him. Does that answer that question?

6 Q. Not exactly, but --

7 A. In other words, they don't take
8 responsibility for me being there because
9 they can't and they don't.

10 Q. But the answer to whether you
11 affirmatively get permission --

12 A. I just said no. They cannot
13 give me permission.

14 Q. Whether they can or can't, do
15 you ever -- sometimes people ask for
16 things, not because they have to but
17 because it's polite.

18 A. I'm not those people. I don't
19 ask. I just show up.

20 Q. Have you ever --

21 A. It's a waste of time.

22 Q. Have you ever said I would like
23 to be the exclusive photographer on this
24 set, can you please ensure that nobody else
25 gets on the set?

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2 A. You know, I would -- no,
3 absolutely not. First of all, I don't have
4 the authority to do so. I'm just a
5 photographer.

6 Even if somebody was willing to
7 do that, I wouldn't even ask because I'm a
8 First Amendment purist, and if something is
9 shooting in a public area and this is my
10 personal photo shoot, I'd make sure it was
11 contained in a place where they didn't --
12 weren't able to get the photo in the first
13 place. I don't believe in bullying people
14 to stop them; I don't have the right to do
15 that.

16 Q. Okay, do you believe that what
17 a director does in placing actors in
18 locations and telling them where to walk
19 and that sort of thing, do you believe that
20 that is creative?

21 A. Depends. It's collaborative.
22 Because usually the director says one thing
23 and the actors do what they want to do
24 anyway.

25 Q. But do you believe there's some

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2 creativity in that process?

3 A. There's some.

4 Q. Do you believe you have the
5 right to capture that creativity and
6 monetize it?

7 A. If it's on a public street I
8 absolutely do have that right. There's not
9 one shred of case law that says otherwise.
10 And believe me, I've read all the cases.

11 Q. Has anyone ever said to you,
12 you know, we would prefer to issue stills
13 from the day and not have -- we invested in
14 this --

15 A. They used to, but remember, I'm
16 known as not taking any bullshit. And
17 that's bullshit. Because that doesn't
18 apply to me because -- and they don't
19 anyway. They don't. CBS certainly
20 doesn't. But it doesn't apply to me.

21 Q. Do you believe -- do you
22 understand that people who make television
23 shows and movies invest money in filming
24 and creating something for the public to
25 enjoy?

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2 A. If they don't want me taking
3 pictures, they should invest more money and
4 shoot in Steiner Studios because I have a
5 right to take any photo that I want. And
6 you know what? We're talking about Marvel
7 now, we're not talking about CBS. CBS's
8 rules might be a little different depending
9 upon who runs PR. And sometimes it's like
10 we don't want photos to get out, and CBS
11 definitely doesn't, they want to control
12 everything. They want to control their Red
13 Carpet. You should see the names of the
14 people they put on the Red Carpet.

15 Q. Have you ever accessed a closed
16 set before?

17 A. Every set is a closed set. But
18 is it a legally closed set?

19 Q. Well, have you ever accessed a
20 set that was not in a public space?

21 A. I used to be hired. I used to
22 be in the union and I used to access those
23 things plenty of times. But we're talking
24 about Marvel now. No, Marvel isn't a
25 public space and this particular image was

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2 with publicists. And I don't like people
3 telling me where the good shot is. I don't
4 like people telling me what I can shoot.
5 Sometimes you're very restricted as the set
6 photographer.

7 Q. In your experience, are set
8 photographers paid to shoot?

9 A. Yeah, you're paid about \$3,000
10 a week.

11 Q. So the set photographer --
12 okay.

13 Have you ever been arrested for
14 accessing television or --

15 A. Oh, yes, I have. But not on
16 The Punisher.

17 Q. How many times?

18 A. Several.

19 Q. Several. More than ten?

20 A. No.

21 Q. More than five?

22 A. Two or three. That's one of
23 the really evil things. And I always
24 litigate on that. And I've had several
25 decisions favorable to me against the City

1 S. SANDS

2 Q. That's one issue in the case
3 with a lot of issues.

4 A. I will just assume that we're
5 here because they didn't license the photo.

6 Q. What software do you use for
7 your -- do you edit your photos at all?

8 A. Sometimes I do.

9 Q. Did you do that in this case?

10 A. I usually use Photo Mechanic
11 and PhotoShop. That's another thing I do
12 that most people don't do, is -- first off,
13 I try to compose in the camera. And if
14 something -- if there's something I don't
15 like, color shift or something like that,
16 I'll spend hours sometimes altering it.

17 And if it's an actor where
18 there's a shadow, I'm very big on making
19 them look good, so if the lighting is
20 really bad, sometimes I'll correct it in my
21 photo. Whether I did that with Jon or not,
22 probably not.

23 I really should only answer
24 questions regarding these photographs.

25 Q. Well, you should answer the

1 S. SANDS

2 Yeah, I don't remember the name of the
3 movie but I think I got \$5,000. They
4 wanted to offer me 500. I said no, no, no.
5 If you hire bad photographers when you
6 should hire me, I'm going to charge you
7 what needs to be charged.

8 And I had her backing because
9 she wasn't going to approve any pictures.
10 So they really had to pay me what I wanted
11 to be paid.

12 Q. How many photos, do you recall
13 about how many photos you gave them?

14 A. I think it was only like three
15 photos. It doesn't really matter. It was
16 like 20 years ago. I remember Dakota
17 Fanning was about eight years old when she
18 was in that.

19 Q. In the past two years how often
20 do you license photographs directly as
21 opposed to through a licensing agency?

22 A. Honestly, it's a good question.
23 It's been diminishing, especially in the
24 past two years because as I mentioned, not
25 only do they not call you back, they don't

1 S. SANDS

2 in the past two years have been issued
3 directly by you as opposed to through a
4 photo agency?

5 A. I have no idea. I don't keep
6 records and statistics. I don't have to.

7 Q. But do you have a sense of --

8 A. I'm a small business owner. I
9 don't really have people to show documents
10 to.

11 Q. You don't need to make excuses.
12 I understand. My question is -- I'm trying
13 to get a sense of if you license 200 images
14 a month, I don't know if this is anywhere
15 close, but let's say you license --

16 A. Myself.

17 Q. There are licenses for your
18 photos, directly or indirectly, do you have
19 just a rough sense of --

20 A. What?

21 Q. Are most of those licenses
22 coming via a photo agency or are most of
23 those licenses coming via you talking
24 directly to the licensing?

25 A. It's mostly a photo agency.

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2 But as I said, many times I try to sell it
3 myself either before I take the picture --
4 I used to call all the time. And I'm doing
5 it less and less now.

6 Q. When was the last time you
7 licensed a photo directly yourself?

8 A. I don't remember. That's how
9 bad it is.

10 Q. When you shoot on film or TV
11 sets, do you stand next to the camera or --
12 how do you --

13 A. I stand wherever I want to
14 stand, as long as I'm not interfering with
15 the production. It depends.

16 Q. Right. So if there's a screen
17 shot from a movie that gets out there, a
18 daily or something, a publicity still --

19 A. I don't know about that.

20 Q. -- how do you know -- when you
21 see it, how would you know if it's yours or
22 not?

23 A. Because as I stated before,
24 when a photo is in question, I look at the
25 photo and then I go on my computer and look

1 S. SANDS

2 for the photos that I have sent out.

3 And -- or I use Liebowitz Law Firm's cloud
4 as a means not just for copyright, as a
5 means of storing my images because hard
6 drives fail. And I like to have my images
7 on several hard drives at home, and I also
8 like to have them on other people who have
9 servers and means to protect them. Just in
10 case they get lost. There's a lot of
11 things that get lost nowadays.

12 Q. Have you ever been in a
13 situation where a photograph was lost or
14 you weren't sure but you thought it was
15 yours?

16 A. Never. It's very easy, you
17 just do a layout and you look at the photo
18 and you see mine and you see theirs. And
19 especially around that time. Marvel and
20 CBS are not releasing screen shots of
21 anything. Nothing is getting out. I am
22 tolerated because they really can't stop
23 me. And some of the people do like what I
24 do.

25 Q. So Marvel, Netflix, nobody

1 S. SANDS

2 released any stills --

3 A. Everything is under NDA.

4 Q. So they never released any to
5 the public --

6 A. Never.

7 Q. There were never any press kits
8 or anything like that?

9 A. Not until a month before the
10 show is going to be released. And even
11 then it's strictly embargoed. Just because
12 they make a press kit -- just because they
13 make a press kit, that doesn't mean
14 everybody is allowed to use it. It means
15 you still have to call Marvel or Netflix
16 for permission. But that doesn't apply to
17 me because I don't work through them.

18 Q. Do you ever stand near the film
19 camera just to see what's being filmed?

20 A. You already asked me that
21 question.

22 Q. You said yes, sometimes.

23 A. Sometimes for sure. But I
24 usually like to get my own angles. Because
25 sometimes their angles work for them. If

1 S. SANDS

2 credit and so this is why you're supposed
3 to -- publications are supposed to give
4 credit.

5 Q. Do you see -- if you flip
6 through the photographs, or the images, do
7 you see at the bottom there's a watermark,
8 there appears to be a watermark?

9 A. Yeah. Comingsoon.net.
10 Correct. On one of them -- several of
11 them.

12 Q. Yes.

13 A. Which is pretty incredible
14 because they never took those pictures.
15 Nor were they licensed to them to shoot.

16 Q. Okay, so the credit then --

17 A. And certainly CBS had no
18 license to shoot -- to run them. If they
19 did run them from comingsoon.net.

20 Q. So when you say there's no
21 credit, you mean that you believe that the
22 credit here is incorrect?

23 A. I'm sorry?

24 Q. Would you consider this
25 reference to comingsoon.net to be a credit,

1 S. SANDS

2 whether it's correct or not?

3 A. It's a credit that they put on
4 themselves. And I don't really see what
5 right they would have to put a watermark on
6 a photo that they had nothing to do with
7 it.

8 Q. You said they have nothing --

9 A. Once again, as I said, that's
10 the arrogance of an internet thief.

11 Q. When you say it's a photo that
12 they had nothing to do with, what do you
13 mean?

14 A. They weren't there.

15 Q. How do you know that it was not
16 licensed from comingsoon.net?

17 A. Because they can't license my
18 pictures. Nor should they.

19 Q. How do you know they can't?

20 A. Because it's not their photo.
21 They don't have a copyright for it.

22 Q. Did comingsoon.net have
23 permission to license the photo?

24 A. I don't know. As I told you, I
25 don't know who licenses what. But

1 S. SANDS

2 comingsoon.net, even if they did, and I
3 don't believe they did because I think
4 they're one of the thieves, one of the
5 serial thieves, but if they did, that
6 doesn't absolve you from running it. They
7 cannot sell it to you. They don't have the
8 copyright to do so. Nobody has the
9 copyright. When they buy a picture, they
10 don't buy it, they license it. That's
11 what's called licensing.

12 Q. Correct.

13 A. That's why nobody used the word
14 "buying." Nobody purchases the photo.
15 They pay for a photo but they're not
16 purchasing it because they don't own it.
17 They license it.

18 Q. They purchase the right to use
19 it.

20 A. Or they steal it. And
21 comingsoon.net, whether they stole it or
22 whether they licensed it, let's be very
23 accurate here, that does not absolve CBS
24 from poaching it from comingsoon.net. It's
25 still my photo. It's still not their

1 S. SANDS

2 photo. This is one thing --

3 Q. Okay --

4 A. -- you should instruct your
5 clients to do. Instead of paying you
6 thousands of dollars to fight this --

7 Q. Mr. Sands, I don't know what
8 question this answers, but my question
9 wasn't should people take things for free
10 or not. That was not my question.

11 A. Well, you're intimating it.

12 Q. I don't think that's an issue
13 in this case. My question is do you know
14 whether comingsoon.net had permission to
15 use the photo? And I want --

16 A. I'm trying to give you
17 information here to help you but I'm going
18 to go more specific. I have no idea what
19 comingsoon.net does.

20 Q. Do you have any reason to
21 believe that by virtue of the fact that
22 comingsoon.net used --

23 A. I don't know because we're not
24 suing them today.

25 Q. They did not have a license?

1 S. SANDS

2 Q. So you took all five of these
3 photos?

4 A. Yes. To the best of my
5 knowledge, of course.

6 Q. I believe you testified earlier
7 that you were on the set for about two
8 hours.

9 A. Probably more.

10 Q. How long?

11 A. I don't know exactly, but I'll
12 say whether I was shooting -- a lot of
13 times there's sleeping on the set because
14 they take a lot of time, but I would say
15 about two hours with Jon on the set.

16 Q. Do you recall any wardrobe
17 changes at the time?

18 A. No. There were no wardrobe
19 changes, but there was -- it was a hot day.
20 Sometimes he took his jacket off in between
21 takes.

22 Q. That's all?

23 A. Yes.

24 MS. LACKMAN: Let's mark as
25 Exhibit 8 another photo is the only

1 S. SANDS

2 way I can describe it.

3 (Whereupon, Color Photo was
4 marked as Defendant's Exhibit 8 for
5 identification as of this date by the
6 Reporter.)

7 Q. Mr. Sands, do you recognize
8 what's been marked as Exhibit 8?

9 A. I don't -- I only can remember
10 the photos that I authorized as were
11 stolen. Whether I recognize this as mine,
12 I have to go to my computer. Because
13 remember, I use due diligence. I can't
14 remember every exact photo that's mine or
15 not.

16 Q. Do you have any other -- would
17 you have any other basis to verify whether
18 this is your photo or not?

19 A. Not here.

20 Q. Is there anything --

21 A. But you know what, this really
22 has nothing to do with the case.

23 Q. Strike -- stop --

24 A. This is not one of the photos
25 that I've marked as stolen.

1 S. SANDS

2 Q. Stop.

3 A. So I have really no knowledge
4 of this.

5 Q. Mr. Sands, I'm going to call
6 the judge and he will instruct you to
7 answer my questions.

8 A. I am answering your questions.
9 You're asking me do I recognize this photo.
10 No, I do not.

11 Q. That's it.

12 A. And I'm telling you why I don't
13 recognize the photo.

14 Q. Mr. Sands, that's it. I don't
15 want to know -- I'm not going to ask you
16 why you don't recognize the photo. Is
17 there anything about -- anything about
18 photographs that you take where you would
19 say this is my style, the lighting, I
20 recognize the depth, I recognize that I was
21 close, anything like that?

22 A. In this? As -- and I also
23 testified, or said at a deposition --

24 Q. Let me ask the question --

25 A. -- that I don't control things.

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2 I shoot what I like to shoot.

3 Q. So is there anything about what
4 you see here, the style, the lighting --
5 I've worked --

6 A. I didn't light it. But do I
7 like this shot? Yes. Would I have taken
8 it if I saw it, absolutely.

9 Q. Do you know who Fameflynet is?

10 A. Who?

11 Q. Fameflynet. Have you heard of
12 them?

13 A. Who?

14 Q. Fameflynet.

15 A. Those are photo agencies.

16 Q. Are you -- let's mark Exhibit
17 9.

18 (Whereupon, Just Jared Photo
19 was marked as Defendant's Exhibit 9
20 for identification as of this date by
21 the Reporter.)

22 Q. Have you ever licensed your
23 photos through Fameflynet?

24 A. Absolutely not.

25 Q. I'm just showing you --

1 S. SANDS

2 A. They're kind of a slimy photo
3 agency, both of them. And I think they're
4 out of business now.

5 Q. I'm showing you what's been
6 marked as Exhibit 9. If you turn -- have
7 you seen this article before?

8 A. Have I what?

9 Q. Have you seen this article
10 before?

11 A. No.

12 Q. If you turn to the second page,
13 do you see that? There's a very -- I know
14 it's somewhat small. There's a credit
15 there to Fameflynet. Do you see that?

16 A. Yeah. Those probably are not
17 my pictures. I guess we can say that.

18 Q. Why can you say that?

19 A. Because some of them don't look
20 familiar. But they're too small. I really
21 can't say for sure because you're showing
22 me something that I need a microscope to
23 actually verify for sure. And even then,
24 if I had a microscope, they'd be so grainy.
25 I can't even verify if it's Jon Bernthal.

1 S. SANDS

2 Q. Were you aware of other -- that
3 there were other articles about the filming
4 on this day --

5 A. It's just -- no. I'm not aware
6 of these. It's a spec of dust. I'm
7 interested in getting the photo and
8 licensing it. I can't -- and you're asking
9 me two and a half years later if I remember
10 this?

11 Q. Mr. Sands, you started a
12 federal action over a series of five
13 photos.

14 A. Over these photos. I know
15 nothing about these photos. I know nothing
16 about them. I know nothing about these
17 articles, I know nothing about these
18 photos. I know about -- I'm filing a
19 federal action on these photos.

20 Q. Right.

21 A. Not these. I know nothing
22 about these. They don't look familiar to
23 me. Will I go home tonight with these
24 papers and see if they're mine? These over
25 here. Absolutely I will. And if you want

1 S. SANDS

2 Q. Have these photos ever been
3 licensed to anybody? Ever.

4 A. I can't answer that. I will
5 assume that they have. I don't do this for
6 free. But I have not looked at my
7 statements to -- do you have any
8 statements?

9 Q. You haven't looked to see if
10 these photos were licensed to anybody?

11 A. I don't really care. I care
12 about who doesn't license them and then
13 uses them. Okay? I don't.

14 Q. Well, how do you know -- how
15 would you know if something isn't licensed
16 if you don't look to see if it was
17 licensed?

18 A. Because I already told you that
19 three times, I'm not going to repeat
20 myself. No, I will repeat myself. If it
21 doesn't have a name I assume it's stolen.
22 If it doesn't have a watermark or a name or
23 a credit, I assume it's stolen, as I said
24 before, and then I do my due diligence to
25 find out in all probability if it was

1 S. SANDS

2 stolen.

3 Q. Basically, if someone put your
4 name on a photo --

5 A. But this has nothing to do with
6 you. Because you already admitted that you
7 stole my pictures.

8 Q. We have not admitted that.

9 MR. FREEMAN: Yes you have.

10 A. Let's take a break. You go
11 take a look at your own records. Yes, you
12 did admit that you stole them.

13 Q. Mr. Sands, if you're going to
14 walk out of the deposition --

15 A. We'll come back in five
16 minutes. Take a look at the records. You
17 already admitted that you stole them --

18 Q. Mr. Sands, I ask the questions
19 and you are not answering them. We'll be
20 calling the court.

21 (The witness leaves the
22 deposition room.)

23 MR. FREEMAN: It says, "CBS
24 Interactive admits that it does not
25 and has never had a license to use

1 S. SANDS

2 MS. LACKMAN: Let's mark as
3 Exhibit 12 some excerpts from a
4 series of -- a series of royalty
5 statements. The original range is
6 Sands 679 to Sands 926. I'm only
7 going -- as with the other one, I'll
8 only be marking particular pages.

9 (Whereupon, Sales and Royalty
10 Statements, Excerpts SANDS through
11 926 was marked as Defendant's Exhibit
12 12 for identification as of this date
13 by the Reporter.)

14 Q. Before you look at this, again,
15 this is the way this was provided to us so
16 I apologize for the size.

17 Are you aware of who Evolve
18 Media is? In particular, are you aware
19 that Evolve Media owns comingsoon.net?

20 A. I don't see what that has to do
21 with CBS. But no, I wasn't aware of that.

22 Q. If you turn to the second and
23 third pages, you should see at the bottom
24 of that where it says page 704, you see
25 right at the bottom and going over to page

1 S. SANDS

2 705 there are several entries for Evolve
3 Media. Do you see that?

4 A. Yes, I do.

5 Q. And do you see the license, the
6 sales date is October 6, 2016? Do you see
7 that?

8 A. Yes, I do.

9 Q. And do you have any
10 understanding from the description what
11 these photos that are being licensed by
12 Evolve Media show?

13 A. From the description it does
14 not say. So I cannot answer.

15 Q. So the reference to
16 October 5th, Jon Bernthal filming does not
17 refresh your recollection?

18 A. I can't argue that somebody had
19 purchased something, but I don't know what
20 they purchased. It doesn't say.

21 Q. Did you take any other photos
22 of Jon Bernthal on October 5th?

23 A. October what?

24 Q. So on October 5th, 2016, did
25 you take any other photos of Jon Bernthal

1 S. SANDS

2 onset?

3 A. Not that I can recall.

4 Q. So is it fair to assume that
5 these photographs were The Punisher
6 photographs that are -- were either at
7 issue in this case or from the same day --

8 A. I'm not going to make any
9 assumptions because then it upsets you. So
10 I can't say based on what it says here, I
11 cannot say. Show me the photo --

12 Q. Do you have any --

13 A. -- on what they're talking
14 about and then I can answer accurately.

15 Q. Do you have a separate
16 understanding as to whether Evolve Media --
17 let me go back.

18 You said you would check to see
19 whether someone had a license. Would you
20 be looking at documents other than these?

21 A. No, I would not be looking at
22 documents. I'd be looking at a photo. I
23 already told you that four times.

24 Q. You'd look at a photo to
25 determine whether a photo was licensed?

1 S. SANDS

2 A. I'm sure there has. But I
3 don't recall.

4 Q. So what you're saying is that
5 if someone wants to get away with
6 infringement, they should just put a credit
7 on the site?

8 A. You said it, not me.

9 Q. Well, no, you did say it
10 because that seems to be the way you
11 verify.

12 A. That's very true. That's very
13 true. If somebody put a credit Getty
14 Images, I would assume that it was not
15 stolen. And many a time, what I do -- no,
16 I'm just going to give you what you want to
17 hear.

18 Q. Don't give me what I want to
19 hear. Give me the truth.

20 A. That's what happened.
21 Sometimes, you're absolutely right, if
22 somebody wants to steal my image, they
23 could put Getty Images. But a lot of
24 people, times they don't. They put Marvel
25 and it has nothing to do with Marvel.

1 S. SANDS

2 It doesn't say.

3 Q. Let's show it to you.

4 MS. LACKMAN: We'll mark as

5 Exhibit 13 --

6 A. This is what I'm trying to help
7 you with.

8 Q. I'm not looking for assistance.
9 I'm looking for answers. There's a
10 difference.

11 A. But you know, in reality I just
12 cannot comment on things that have nothing
13 to do with CBS Interactive because I don't
14 know.

15 MS. LACKMAN: Let's mark as
16 Exhibit 13 an image with the language
17 at the top "Daredevil series
18 character appears on The Punisher
19 set."

20 (Whereupon, Daredevil Series
21 Character Photo was marked as
22 Defendant's Exhibit 13 for
23 identification as of this date by the
24 Reporter.)

25 A. Ah, here we go.

1 S. SANDS

2 on everything. If you want to come back
3 another day --

4 A. No, no, it's okay. Please tell
5 me what question I haven't answered.

6 Q. The question is, did Evolve
7 Media get this license as a package deal?

8 A. I don't know. It doesn't say.
9 It does not say. I don't know.

10 Q. Did you inquire?

11 A. No.

12 Q. Are you -- does \$4.88 for an
13 online use of a photo sound unusual to you
14 or improper?

15 A. It depends on the circumstances
16 that I outlined. And it doesn't say on
17 this statement -- you'll notice there's a
18 huge blank here, which normally has
19 information.

20 Q. Well, maybe you need to provide
21 us with more complete documents.

22 A. This is what they gave me.

23 MR. FREEMAN: You subpoenaed,
24 to be fair, and this is what he had
25 in his possession.

1 S. SANDS

2 practice, I believe I can't get any money
3 for referrals. And I don't care because
4 the more people that sue people like your
5 client, I just want it to stop. I just
6 want to go back to the business of calling
7 for photos and licensing them. That's all
8 I really want. I don't like the business
9 of litigation. I want to be shooting
10 Tiffany Haddish today. And I have a
11 headache now because you're asking me all
12 these questions and I have no problem
13 answering them.

14 Q. Isn't litigating --

15 A. I just think it's sad that we
16 have to go through all this just to get
17 proper compensation. And if corporations
18 were more responsive, maybe we wouldn't
19 have to do this.

20 Q. Speech.

21 A. I just don't like the practice
22 of lawyering up to shut me up. That's not
23 gonna work.

24 MS. LACKMAN: Let me mark as
25 Exhibit 16 -- let's mark as Exhibit

1 S. SANDS

2 Q. Were these all print uses?

3 A. Yes.

4 Q. Did they include rights for
5 online, do you know?

6 A. No.

7 Q. No you don't know?

8 A. The Daily News, especially
9 online rights, are separate from --
10 different editors, different offices, are
11 separate from print.

12 Q. Did you ever create a similar
13 e-mail for your lawyers for online uses?

14 A. No. I don't believe there
15 were -- I don't believe I had an
16 arrangement with The Daily News for online
17 usage. Though I'm sure you'll find some
18 that were used online.

19 Q. Did you have an arrangement
20 with anybody in the past five years for
21 online uses?

22 A. What?

23 Q. Did you have an arrangement
24 with anybody in the past five years for
25 online uses?

1 S. SANDS

2 A. No.

3 Q. Let's mark as Exhibit 21 a
4 document Bates stamped Sands 56.

5 (Whereupon, SANDS 56 was marked
6 as Defendant's Exhibit 21 for
7 identification as of this date by the
8 Reporter.)

9 Q. Do you recognize this document?

10 A. Yes, I do.

11 Q. Did you agree to a thousand
12 dollars for the whole set, print and web?

13 A. You know, I don't believe there
14 was an answer on that.

15 Q. Oh, okay.

16 A. And a thousand dollars is a
17 thousand dollars. And at the time I had a
18 good relationship with The Daily News
19 because they weren't begging for money.
20 And a thousand dollars sounded good so at
21 the time I really didn't care.

22 Q. They weren't begging for money?
23 What do you mean by that?

24 A. A thousand dollars, if it was
25 print and web, I don't know. But even now,

1 S. SANDS

2 A. I don't even remember. I might
3 have seen it today. They all kind of look
4 the same to me, to be honest. Once again,
5 I'm not a lawyer.

6 Q. This one, if you see in the
7 first paragraph, it references Krysten
8 Ritter and Mike Colter on the TV series
9 Jessica Jones. Do you see that?

10 A. Oh, yeah. That's right, you
11 guys have stolen before. This is an
12 example that we had to file against you
13 before.

14 Q. And you believe that CBS stole
15 photos from you in this case?

16 A. I believe, and tell me if I'm
17 corrected --

18 Q. I want to know what you
19 believe.

20 A. -- that this was settled
21 because they didn't want to go to trial on
22 this because they knew they were guilty and
23 they paid out. I don't remember any more
24 than that off the top of my head.

25 Q. Would you be surprised if I

1 S. SANDS

2 withdrawn. I wasn't with the firm at
3 this time so I can't represent what
4 happened.

5 Q. I will represent to you that
6 this lawsuit was withdrawn because there
7 was a license to use these photos.

8 A. Do you have proof of that?

9 Q. Yes. Talk to your lawyer when
10 you get back to the office.

11 MR. FREEMAN: Well, we haven't
12 received any production from your
13 office as to why this suit was
14 dismissed. So you're making a naked
15 representation.

16 MS. LACKMAN: He doesn't know
17 that a lawsuit was filed and
18 withdrawn?

19 MR. FREEMAN: He's got
20 something over 50 lawsuits filed.

21 MS. LACKMAN: He only testified
22 that he has 20.

23 MR. FREEMAN: In one year he
24 said.

25 A. Nor was I over his shoulder for

1 S. SANDS

2 yes, you've taken steps?

3 A. In which example?

4 Q. In any example.

5 A. Which specifically? We have to
6 be specific now.

7 Q. Since that lawsuit was
8 withdrawn, have you taken any steps to
9 ensure that that doesn't happen again?

10 A. I wasn't even aware that it was
11 withdrawn so I really can't answer that
12 question. You'll have to ask Richard. But
13 I support whatever decision he made as a
14 person who studied law, which I have not,
15 at least in detail to be a lawyer. And if
16 he did something that he felt he needed to
17 do, I'm fine with that.

18 And please, if you have any
19 information to tell me that you feel I
20 should know, please tell me. Let's not
21 play games here. Please tell me if you're
22 alluding to somebody that I should know
23 about to use due diligence, you're telling
24 me to talk to my lawyer, I have a lawyer
25 right here, he wasn't with the firm at the

1 S. SANDS

2 Q. How many days were you on the
3 set?

4 A. They were only in town for
5 one -- two days.

6 Q. Did you go both days?

7 A. Yes.

8 MS. LACKMAN: Let's mark as --

9 Q. Do you have any reason to
10 believe this is not your photograph?

11 A. I'm not certain. It has no
12 name on it. It most likely was mine, but
13 you want me to confirm, I cannot confirm.
14 This looks more familiar to me. But I
15 cannot confirm.

16 MS. LACKMAN: We're going to
17 mark as Exhibit 24 another
18 photograph.

19 (Whereupon, Cumberbatch Photo
20 was marked as Defendant's Exhibit 24
21 for identification as of this date by
22 the Reporter.)

23 Q. Do you recognize this
24 photograph?

25 A. Yes, I do.

1 S. SANDS

2 Q. Did you take it?

3 A. Once again, it has no
4 information that I can tell you -- you want
5 me to tell you beyond a reasonable doubt.
6 I know I was there. It looks like a photo
7 that I would have taken. If they had a set
8 photographer, I don't know.

9 Q. Did you -- when you verified --

10 A. But if I had signed off on it
11 as that you have stolen, then that means at
12 the time I did the proper vetting to make
13 sure it was the exact same photo.

14 But now you're asking me two
15 and a half years later, maybe three -- is
16 it two or three? Two and a half years
17 later and you want me to tell you with a
18 hundred percent reliability, I can't.

19 Q. That's fine. You answered the
20 question.

21 When you verify the photos, how
22 do you go about doing that? And then --

23 A. Didn't I answer that question
24 five times already?

25 Q. Do you look at them side by

1 S. SANDS

2 side?

3 A. I look at them side by side.

4 Q. And then when you verify that
5 it is your photo, what do you do?

6 A. I pass it on to the appropriate
7 people at the time.

8 Q. So to your lawyers.

9 A. To my lawyers. Or to a
10 publication that I already have a
11 relationship with.

12 Q. How do you notify your lawyers?
13 By e-mail?

14 A. A phone call.

15 Q. How do they know what photo --
16 when you call them, how do they know what
17 photo it is?

18 A. I will tell them where to find
19 it, or I possibly will e-mail it to them.
20 Or they could find it on their own. Or
21 they could have a tipster call them or me
22 to tell me, hey Steve, we saw your photo,
23 were you paid for it. Those are the ways
24 we find out.

25 And Richard might have other

1 S. SANDS

2 at a time asking the same questions in true
3 CBS harassing form. It's 5:32.

4 Q. Did your lawyer tell you that
5 when you sue someone you need to make
6 yourself available for up to 7 hours of
7 deposition?

8 A. I have made myself available
9 and I wanted to go straight through because
10 I'm willing to do it and I have staying
11 power. But I am leaving here the very same
12 way Eliza Dushku left her dealings with
13 CBS's lawyer with a major headache after
14 the way she was dealt with on the set of
15 Bull.

16 Q. Maybe you can --

17 A. Maybe CBS will stop harassing
18 people and start paying them.

19 Q. Wait, hold off. We're still on
20 the record. Did you try to make any effort
21 to contact CBS prior to getting lawyers
22 involved?

23 A. And I stated I do not remember.
24 But I will also state that I doubt I did.

25 Q. Okay, no further questions.